

Amending COVID-19 Circuit Court Operating Plan

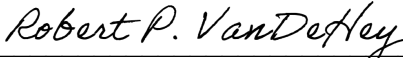
WHEREAS: On May 21, 2021, the Wisconsin Supreme Court terminated the following orders: (1) In re the Matter of Jury Trials During the COVID-19 Pandemic—Amended (S. Ct. Order issued March 22, 2020; Amended April 15, 2020); (2) In re the Matter of Filing of Court Documents in Circuit and Appellate Courts (Temporary Mailbox Rule) (S. Ct. Order issued April 13, 2020); (3) Interim Rule 20-02; and In re the Matter of the Extension of Orders and the Interim Rule Concerning Continuation of Jury Trials, Suspension of Statutory Deadlines for Non-Criminal Jury Trials, and Remote Hearings During the COVID-19 Pandemic (Amended Order) (S. Ct. Order issued October 1, 2020).

WHEREAS: The Wisconsin Supreme Court “no longer requires that personal masking, social distancing, and sanitizing court facilities be part of any plan for circuit court and municipal court proceedings approved by the chief judge of the applicable judicial district. Instead, circuit courts and municipal courts, with the approval of the applicable chief judge, shall make county-wide decisions about what is in the best interest of circuit court and municipal court operations, respectively. This includes deciding whether or not to continue to require masking, social distancing, and sanitizing court facilities on a county by county basis.”

WHEREAS: The Circuit Court Judges have determined that it is in the best interest of the circuit court operations for Jackson County to amend its existing COVID-19 Court Operational Plan, dated June 8, 2021.

THEREFORE: The COVID-19 Court Operational Plan for Jackson County is hereby amended.

Date: September 9, 2021



Honorable Robert VanDeHey
Chief Judge
Seventh Judicial Administrative District

AMENDING COVID-19 CIRCUIT COURT OPERATING PLAN

3rd Amended Operating Plan for Jackson County

1. Given the increasing rates of transmission of COVID-19 across the Nation, as of September 13, 2021, Jackson County is requiring all employees, regardless of vaccination status, to mask in all Jackson County Buildings (with certain limited exceptions) until further notice.
2. The CDC maintains a database which tracks the rate of community transmission of COVID-19 by county (low, moderate, substantial and high). Currently all but one county in Wisconsin is in the “high” transmission rate.
3. The Operational Plan Steering Committee recently convened and discussed the issue of COVID-19 transmission, receiving input from the Public Health Department.
4. Given that Jackson County is in a status of “high” transmission rate, all persons present (regardless of vaccination status) in courtrooms, jury rooms, and other court-related spaces for hearings or trials shall wear face coverings, as defined in prior operational plan orders for Jackson County. The presiding court official may make exceptions for testifying witnesses, other individuals who are speaking, or in other circumstances where the court official deems it appropriate given considerations for number of persons present, the type of hearing, the duration of the hearing, and the ability to appropriately socially distance all parties.
 - a. Masks will be available near the entrance to the courtrooms.
 - b. Hand sanitizer is located throughout the Courthouse including at the entry of each courtroom and at counsel tables in the courtrooms.
 - c. Signage shall be placed at the entrance of each courtroom, jury room and court-related confined spaces providing information regarding face covering requirements, availability of hand sanitizer and encouraging social distancing.
 - d. Individuals in the courtroom shall use best efforts to social distance. Exceptions will be made for counsel appearing with clients or when circumstances require as dictated by the presiding court official.

5. The number of individuals allowed in the courtroom may be limited to provide for proper social distancing. Priority will be given to victims and support people for both victims and defendants over the general public. If seating is an issue, the courtroom bailiff shall inquire whether there is a victim who wishes to be present and then determine others with priority. The other courtroom may be used as an overflow room for cases that have a large number of people appearing. The video conferencing system will be used to project from the courtroom's video conferencing system to the courtroom video conferencing if needed. An additional bailiff will monitor the courtroom when it is used for this purpose.
6. At such time as the transmission rate in Jackson County reduces to "moderate" or "low" according to the CDC, the Operational Plan Committee will reconvene to consider whether, in light of data reviewed by the Jackson County Public Health Department, Jackson County shows a steady downward trend such that mandatory masking for all persons is no longer necessary.

Vulnerable Populations

Individuals who consider themselves or their family vulnerable who are unable to be vaccinated against COVID-19 are encouraged to contact the court *before the set date/time* to ask for accommodations if they believe they are unable to safely appear in person or serve on a jury.

In-Person and ZOOM Hearings

Remote hearings will be preferred unless a party requests otherwise or there are constitutional or other evidentiary concerns implicated which necessitate an in person appearance. Remote video appearances are preferred over audio appearances, when possible, unless otherwise noted herein. Notwithstanding, each presiding court official shall have discretion in scheduling court hearings either in-person or by Zoom. If a party objects to a hearing that has been scheduled to be in-person or by Zoom, a written request may be filed to convert it to the other. Such request must be filed at least 96 hours before the hearing, specify a basis, and report on whether the other party objects. The presiding court official will make the final determination on whether a hearing is in-person or by Zoom.

Felony Cases

Given the serious nature of felony charges, all defendants charged with a felony shall appear either in person or remotely via Zoom **video** unless a specific exception is

sought from and granted by the presiding court official *at least 24 hours in advance of said hearing*. If a defendant wishes to appear via Zoom and does not have sufficient equipment or service available he/she can make arrangements *at least 24 hours in advance* to use the Zoom application in the Courthouse Conference room by contacting the Judicial Assistant. Attorneys must advise their clients of the privilege being offered by the court to appear remotely by Zoom video in advance of the hearing, and should explain how the program works, including advising of the “*6” feature to mute/unmute.

Jury Trials

1. As long as deemed appropriate by the judges, no more than one 12 person jury trial shall be proceeding at one time in order to enable proper social distancing.
2. As long as deemed appropriate by the judge presiding over a jury trial, for 12 person jury trials, the court will impanel the number of jurors necessary prior to strikes in the Courtroom, with all remaining potential jurors assembled in the other open Courtroom to be called upon as necessary. The Court will simultaneously broadcast the voir dire selection process to the alternate jurors in the open Courtroom.
3. As long as deemed appropriate by the judge presiding over a jury trial, the open Courtroom or County Board Room shall be used by 12 person juries for their breaks and deliberations.
4. At the Court’s discretion, in a 12 person jury trial, arguments on objections which are to be conducted outside the presence of the jury may require the parties and counsel move to the “open” Courtroom while the jury remains seated in the original trial Courtroom.
5. In order to meet social distancing requirements for 12 person jury trials, the Courtroom positions may be reconfigured to seat jurors in the rear of the Courtroom, with additional modifications for counsel tables accordingly.
6. If the Court limits capacity in the Courtroom for a jury trial, the following accommodations will be given for public view of the proceedings:
 - a. Priority will be given to victims and the victim’s families.
 - b. The media may be required to use remote means to access the trial while still complying with SCR rules and local court rules.
 - c. The open branch or other appropriate location will be used for voir dire and other public viewing of the proceedings.

7. Jurors will be provided with bottled water and individually packaged snacks.
8. Jurors will be served a jury duty summons at least 3 weeks prior to jury duty. The summons will include a letter addressing any safety precautions in place and advise prospective jurors to immediately notify the Clerk of Court if they experience COVID-19 symptoms and/or are concerned about their physical health and safety if required to attend.
9. The two Branches and other judges assigned to Jackson County cases will jointly prioritize the primary case(s) for jury trial each week. The factors to be considered include: whether the defendant is in custody on criminal charges, age of case, severity of charges or seriousness of subject matter, whether there are victims, whether jury trial was previously adjourned by the Court, any speedy trial demands or statutory deadlines, and any other relevant factor in the Court's discretion. The parties will be advised of which trial(s) will be proceeding at least 2 weeks prior to start of the jury trial(s) to the best of the Court's ability.

Intent

The intent of this plan is to provide for appropriate safety measures, while also giving the Court flexibility to make adjustments as appropriate.

Duration

This operational plan is effective as of the date it is approved by the Chief Judge of the Judicial District and shall remain in effect pending the Court approving an amended operational plan or the issuance of any further orders from the Wisconsin Supreme Court Order.

Dated this 15th day of September, 2021.



Anna L. Becker
Circuit Court Judge
Branch 1



Daniel S. Diehn
Circuit Court Judge
Branch 2